147 FERC ¶ 61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Midcontinent Independent System Operator, Inc. — Docket No. ER14-1713-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued June 10, 2014)

1. On April 11, 2014, Midcontinent Independent System Operator, Inc. (MISO) filed, pursuant to section 205 of the Federal Power Act (FPA)[1] and Part 35 of the Commission's regulations,[2] proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (MISO Tariff) to include the Sub-Regional Power Balance Constraint[3] and Sub-Regional Power Balance Constraint Demand Curve,[4] as well as other related modifications (Power Balance Filing). MISO states that this filing is necessitated by the Commission's order issued in Docket No. ER14-1174, et al., on March 28, 2014, placing into effect an unexecuted, non-firm point-to-point transmission service agreement (Service Agreement) between MISO and the Southwest Power Pool, Inc. (SPP).[5] In this order, we conditionally accept for filing the Power Balance Filing, effective April 12, 2014, as requested, subject to a compliance filing due within 30 days of the date of this order, as discussed below.

[1] 16 U.S.C. § 824d (2012).

[2] 18 C.F.R. pt. 35 (2013).

[3] The Sub-Regional Power Balance Constraint is a net energy injection and withdrawal constraint established to manage intra-regional flows in accordance with applicable seam agreements, coordination agreements, transmission service agreements, or operating procedures. Power Balance Filing at 6.

[4] The Sub-Regional Power Balance Constraint Demand Curve is the demand curve used to price Sub-Regional Power Balance Constraints. *Id.*

[5] *Southwest. Power Pool, Inc.*, 146 FERC ¶ 61,231 (2014) (MISO-SPP JOA Order).

I. Background

2. On March 28, 2014, the Commission issued the MISO-SPP JOA Order addressing four proceedings involving the dispute between MISO and SPP over the terms of the Joint Operating Agreement between MISO and SPP (MISO-SPP JOA): (1) a recent opinion of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacating and remanding orders of the Commission in Docket Nos. EL11-34-000 and EL11-34-001 that interpreted section 5.2 of the MISO-SPP JOA;[6] (2) a complaint filed by SPP against MISO under sections 206 and 306 of the FPA[7] alleging various violations by MISO of the terms of the MISO-SPP JOA, or in the alternative, that the MISO-SPP JOA is no longer just and reasonable (SPP Complaint);[8] (3) a complaint filed by MISO against SPP under sections 206 and 306 of the FPA alleging SPP's violation of the terms of the MISO-SPP JOA (MISO Complaint);[9] and (4) SPP's filing under section 205 of the FPA of the Service Agreement (SPP Service Agreement Filing).[10] In the MISO-SPP JOA Order, the Commission accepted for filing the Service Agreement, suspended it for a nominal period, and made it effective January 29, 2014, subject to refund. In addition, the Commission consolidated the four proceedings and established hearing and settlement judge procedures.

3. The SPP Complaint sought a Commission order finding that MISO is violating the MISO-SPP JOA and the SPP Open Access Transmission Tariff (SPP Tariff) and requiring MISO to compensate SPP for use of the SPP transmission system under the SPP Tariff. Alternatively, SPP requested that the Commission find that: (1) the MISO-SPP JOA is no longer just, reasonable, and is unduly discriminatory to the extent that it does not provide a mechanism by which SPP may assess charges for MISO's use of the SPP transmission system to integrate the Entergy Operating Companies into MISO; and

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[6] *Sw. Power Pool, Inc. v. FERC*, 736 F.3d 994 (D.C. Cir. 2013).

[7] 16 U.S.C. §§ 824e, 825e (2012).

[8] Southwest Power Pool, Inc., Complaint and Request for Fast Track Processing and Motion to Consolidate, Docket No. EL14-21-000 (filed Jan. 28, 2014).

[9] Midcontinent Independent System Operator, Inc., Complaint and Motion to Consolidate, Docket No. EL14-30-000 (filed Feb. 18, 2014).

[10] Southwest Power Pool, Inc., Submission of Unexecuted Non-Firm Point-to-Point Transmission Service Agreement, Docket No. ER14-1174-000 (filed Jan. 28, 2014).

(2) the compensation mechanism set forth in the SPP Complaint is the just, reasonable, and not unduly discriminatory rate for MISO's use of the SPP transmission system.[11]

4. Concurrent with the SPP Complaint, SPP also filed the Service Agreement to assess charges for MISO's use of the SPP transmission system as a result of MISO's real-time energy transfers between the MISO Midwest and MISO South regions. SPP explained that all entities that use the SPP transmission system to move energy must reserve transmission service and compensate SPP for service, and must do so under a transmission service agreement. SPP argued that it is treating MISO comparably to other entities that desire to use the SPP transmission system to transfer energy.[12]

II. Power Balance Filing

5. MISO argues that the Power Balance Filing is necessitated by the MISO-SPP JOA Order, which it contends allowed the Service Agreement to go into effect without a meaningful suspension period, subject to refund, and the Commission's order necessitates the accelerated implementation of a solution developed to address issues under the Operations Reliability Coordination Agreement.[13] MISO states that although it disagrees with the charges proposed by SPP, as well as the overall concept of a Regional Transmission Organization (RTO) becoming a transmission customer of another RTO, MISO must immediately put into effect appropriate measures to help ensure that any charges resulting from application of the Service Agreement are appropriately mitigated. MISO explains that the tariff provisions in the Power Balance Filing will do so by providing MISO a means to manage intra-regional flows, specifically, those between the MISO Midwest region and the MISO South region.[14]

6. MISO states that, prior to the issuance of the MISO-SPP JOA Order, MISO managed intra-regional flows using a multi-transmission element proxy flowgate approach (proxy flowgate approach).[15] MISO explains that when proxy transmission

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[11] SPP Complaint at 1-2.

[12] SPP Service Agreement Filing at 4.

[13] The Operations Reliability Coordination Agreement between MISO and certain of its interconnected neighbors limits intra-regional flows between MISO Midwest and MISO South to 2,000 MW. *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,032 (2013).

[14] Power Balance Filing at 1-2.

[15] We note that this is the means by which MISO restricted intra-regional flows, first within 2,000 MW and now, within 1,000 MW.

constraints bind, the constraints are managed using MISO's Transmission Constraint Demand Curve.[16] MISO explains that the use of the proxy flowgate approach and the Transmission Constraint Demand Curve to price binding constraints, has led to difficulty in managing dispatch flow. As a result, MISO notes that it has been developing an alternative approach that would manage the constraints more effectively and efficiently.

7. After reviewing initial market results following the integration of the Entergy Operating Companies into MISO, MISO identified improvements to the method implemented to redispatch market resources in order to maintain intra-regional flows, i.e., those flows between MISO Midwest and MISO South.[17] MISO states that the Sub-Regional Power Balance Constraint employs an "Energy injection and withdrawal constraint" methodology to manage the flows between MISO Midwest and MISO South. The Sub-Regional Power Balance Constraint requires the net energy injected into a sub-region, minus the energy withdrawals, including transmission losses, to be within certain ranges required by seams agreements, coordination agreements, transmission service agreements, or operating procedures (i.e., the 1,000 MW contract path limit between MISO Midwest and MISO South).[18] MISO explains that the Sub-Regional Power Balance Constraint approach recognizes that flows between the MISO regions are being limited by an artificial constraint, such as the 1,000 MW limitation under the Service Agreement, rather than an actual, physical limitation on the transmission system.

8. MISO further explains that this approach will place an equal sensitivity on all generators in the MISO South region when a Sub-Regional Power Balance Constraint is binding. MISO explains that when intra-regional flows exceed the ranges established for such flows, generation resources with sensitivity to the Sub-Regional Power Balance Constraint will be redispatched in economic order to manage flows within the established

[16] The Transmission Constraint Demand Curve is a curve used to price a transmission constraint during a dispatch interval in which the transmission constraint cannot be managed within its binding limit using the Security Constrained Economic Dispatch engine. MISO, FERC Electric Tariff, Module A, Common Tariff Provisions (30.0.0).

[17] Vannoy Testimony at 4.

[18] *Id.* at 7. Entergy Arkansas, Inc. (Entergy Arkansas), Ameren Corporation (Ameren), and Associated Electric Cooperative, Inc. (Associated Electric) are parties to an interconnection agreement under which they share the capacity of the 500/345 kV transformers on a high-voltage interconnection (Interchange Agreement). The direct contiguous tie capability between Entergy Arkansas and Ameren is approximately 1,000 MW of the 1,500 MW total capability of the interconnection (i.e., the 1,000 MW contract path limit).

ranges.[19] The value of this redispatch cost will affect the marginal congestion component of locational marginal pricing.[20] MISO asserts that this will provide improved control and economic efficiency. Thus, MISO argues that this approach will provide it with more direct control over the dispatch flow than under the proxy transmission flowgate approach.[21] MISO also asserts that this will reduce uplift of costs to MISO stakeholders.

9. MISO will apply the Sub-Regional Power Balance Constraint Demand Curve to price Sub-Regional Power Balance Constraints during any dispatch interval in which such constraints cannot be managed within MISO's binding limit using the security constrained economic dispatch engine. MISO explains that the new demand curve will be a multi-block curve consisting of multiple price levels to price exceedances when the Sub-Regional Power Balance Constraint cannot be managed within its binding limit. MISO explains that this approach is similar to the Transmission Constraint Demand Curve that the Commission accepted in 2013.

10. MISO states that its goals for the Sub-Regional Power Balance Constraint Demand Curve are to: (1) economically manage intra-regional flows to ranges established under seams agreements, coordination agreements, transmission service agreements, or operating procedures; (2) reduce transient price spikes; (3) establish a market price signal that reflects the degree and value of exceeding intra-regional flow ranges; and (4) establish curves that are straight-forward and simple enough for operational practice.[22] According to MISO, the new Sub-Regional Power Balance Constraint and associated demand curve will address inefficiencies in the current method used to manage these intra-regional flows.

11. MISO also explains that its proposal provides the ability to temporarily override the Sub-Regional Power Balance Constraint Demand Curve when the Sub-Regional Power Balance Constraint binds in two consecutive dispatch intervals. MISO states that it will publicly post information relating to such temporary overrides.

12. According to MISO, once charges under the Service Agreement are more clearly understood and quantifiable, it may explore with stakeholders the development and implementation of other measures.

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[19] *Id.* at 8.

[20] *Id.*

[21] MISO's testing has shown improved control and greater economic efficiency using the power balance constraint approach. *Id.* at 7.

[22] Power Balance Filing at 5.

III. Notices of Intervention and Protests

13. Notice of the Power Balance Filing was published in the *Federal Register*, 79 22,484 (2014) with interventions, and protests due on or before May 2, 2014. Various entities filed motions to intervene, notices of intervention, comments, protests, answers, and other pleadings. Several entities filed late motions to intervene. The appendix to this order lists those pleadings. The entity abbreviations listed in the appendix will be used throughout this order.

IV. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to these proceedings. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2013), we will grant the late-filed motions to intervene given the entities' interest in the proceeding, the early stages of the proceeding, and the absence of undue prejudice or delay.

15. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or an answer to an answer unless otherwise ordered by the decisional authority. We will accept the answers because they have provided information that assisted us in our decision-making process.

B. Comments and Protests

16. Several parties filed comments in support of the Power Balance Filing and urge the Commission to accept MISO's filing effective April 12, 2014, as requested.[23] Several parties also filed comments and protests raising multiple issues with the Power Balance Filing, such as lack of a stakeholder process, issues with the proposed methodology, impact on generators, applicability of the demand curve, irreparable harm and consolidation with the MISO-SPP JOA proceeding. These issues are summarized and discussed below.

[23] *See, e.g.*, MISO Transmission Owners Comments at 2; Xcel Comments at 4; Entergy Comments at 5-6.

1. Stakeholder Process

17. Several parties argue that MISO did not vet the Power Balance Filing through the stakeholder process.[24] Entergy and MISO Transmission Owners support the Power Balance Filing, but they suggest that MISO should work with stakeholders to consider other options. Entergy states that MISO should explore and, as appropriate, implement alternatives that would permit it to increase North-South transfers above 1,000 MW in a manner that results in net benefits to customers (i.e., in hours when production cost savings exceed any SPP transmission charges). It argues that, unless and until the Commission grants rehearing of its acceptance of the SPP penalty charges, MISO should continue to evaluate such options in coordination with its stakeholders. Entergy asserts that such options should seek to optimize the commitment and dispatch of units, taking into account the charges incurred under the unexecuted Service Agreement, in a manner that achieves net savings to customers in the MISO market and results in an allocation of the resulting costs commensurate with the resulting benefits. Entergy states that it intends to work with the MISO Transmission Owners and MISO to pursue this preferred interim solution until the dispute between MISO and SPP relating to north-south market flows is resolved.[25]

18. The Mississippi-New Orleans Regulators are also concerned about the lack of a stakeholder process leading up to this filing. The Mississippi-New Orleans Regulators state that MISO did not provide an opportunity to review the proposed tariff changes or provide any comparison of the methodologies, or effect on market prices.[26]

2. Methodology

a. Need for 1,000 MW Constraint

19. Several parties contend that MISO did not provide a study in support of the Power Balance Filing.[27] For example, the Louisiana Commission contends that any approval of MISO's request should be subject to a requirement that MISO study alternative commitment and dispatch methods, taking into account potential charges from SPP, to

[24] *See*, *e.g.*, Louisiana Commission Comments; Mississippi-New Orleans Regulators Comments; Xcel Comments.

[25] Entergy Comments at 5.

[26] Mississippi-New Orleans Regulators Comments at 11.

[27] *See*, *e.g.*, Louisiana Commission Comments; Mississippi-New Orleans Regulators Comments.

determine the best methodology to maximize market benefits for customers.[28] The Louisiana Commission also argues that the proposal appears to depart from the methodology used under the Operations Reliability Coordination Agreement.[29]

20. The Mississippi-New Orleans Regulators assert that the MISO-SPP JOA Order did not direct MISO to revise its methodology or impose a 1,000 MW limit. They further argue that it is not clear why MISO contends that the proposed tariff modifications are needed immediately to manage south-to-north flows, because the Operations Reliability Coordination Agreement already provides an accepted methodology to monitor and manage such flows. The Mississippi-New Orleans Regulators contend that MISO appears to be forging ahead with its own proposal without collaborating with the other signatories to the Operations Reliability Coordination Agreement.[30]

21. The Mississippi-New Orleans Regulators argue that MISO's filing offers no exhibits or tables comparing a representative dispatch under the current Operations Reliability Coordination Agreement process to a model dispatch based on the new approach. The Mississippi-New Orleans Regulators also maintain that MISO fails to offer a comparison of MISO Midwest and South energy, capacity, or congestion prices before and after implementation of the new methodology. The Mississippi-New Orleans Regulators also further assert that MISO has not explained how dispatching only those generators located in the MISO South sub-region, in unison, but at levels relative to their capability will result in a more economic dispatch, particularly when the dispatch will be irrespective of a generator's location relative to the monitored flowgate.[31]

22. The Mississippi-New Orleans Regulators also argue that MISO's proposal to restrict flows to 1,000 MW as a means of avoiding charges under the SPP Agreement may be unjust and unreasonable. The Mississippi-New Orleans Regulators assert that MISO does not adequately explain why reducing the restraint from the 2,000 MW limit prescribed under the Operations Reliability Coordination Agreement to the 1,000 MW limit prescribed under the new constraint methodology will improve efficiency. According to the Mississippi-New Orleans Regulators, MISO acknowledges that the 2,000 MW limit under the Operations Reliability Coordination Agreement is artificial

[28] Louisiana Commission Comments at 1.

[29] *Id.* at 2.

[30] Mississippi-New Orleans Regulators Comments at 8.

[31] *Id.* at 8-9.

and inefficient. Thus, the Mississippi-New Orleans Regulators argue that restricting flows to 1,000 MW seems even more inefficient.[32]

23. In its answer, MISO acknowledges the concerns raised by the interveners that the Sub-Regional Power Balance Constraint may not be the most efficient solution to manage intra-regional flows. However MISO asserts that it implemented the Sub-Regional Power Balance Constraint and associated Power Balance Constraint Demand Curve out of an abundance of caution to mitigate the risks of being subject to undeterminable costs under the Service Agreement. MISO maintains that the Sub-Regional Power Balance Constraint Demand Curve is just and reasonable as filed, and it should be accepted.[33]

b. Demand Curve Override

24. MISO Transmission Owners, Xcel, and Mississippi-New Orleans Regulators take issue with the lack of oversight of MISO's discretion in implementing a manual override. MISO Transmission Owners explain that while they support MISO's efforts to constrain its use of the shared contract path capacity to 1,000 MW, they have concerns about the breadth of the proposed mitigation measures and the manner in which MISO will determine whether to deviate from the demand curve it seeks to establish.[34] MISO Transmission Owners and Xcel are concerned that MISO's proposed procedures do not provide interested parties with any assurance that override decisions will be made predictably or consistently.[35] The Mississippi-New Orleans Regulators are also concerned that, if the new constraint methodology does not work, MISO will override the constraint manually without any objective guidance. The Mississippi-New Orleans Regulators assert that MISO offers no usable description of when a manual override is appropriate or how it will affect market prices.[36] MISO Transmission Owners assert that, while MISO would provide public notice that it exercised its discretion after the fact, there appears to be no meaningful constraint on MISO's discretion or any recourse for parties adversely affected by MISO's actions.

[32] *Id.* at 11-12.

[33] MISO Answer at 8-9.

[34] MISO Transmission Owners Comments at 3.

[35] *Id.* at 6; Xcel Comments at 4.

[36] Mississippi-New Orleans Regulators Comments at 10.

25. Accordingly, MISO Transmission Owners and Xcel request that the Commission require MISO to explain the factors it will consider in determining whether to deviate from the demand curve.[37] MISO Transmission Owners explain that, if the demand curve is intended to provide price signals and ensure efficient use of transmission resources, MISO needs to explain how, when, and why it will allow exceedance of binding constraints with the associated incurrence of transmission costs and penalties for the purpose of more efficient market operations.[38] Therefore, MISO Transmission Owners assert that the Commission should require MISO to institute a process by which it will maintain detailed information about its override systems and make that information available to stakeholders on an after-the-fact basis.[39] They assert that the Commission also should require MISO to implement an automatic review of its override practices within six months after the effective date of these tariff revisions, and every six months thereafter, so that it will be transparent to stakeholders when and why override decisions are being made and any effects that flow from those decisions.[40]

26. The Market Monitor asserts that MISO's proposal has created certain operating problems; for example, when a constraint is binding at a significant shadow cost, MISO's proposal can cause the real-time market not to reduce the dispatch level of resources that should be ramped down to manage a real physical constraint. The Market Monitor asserts that this has occurred when managing key load-pocket constraints within MISO, which requires individual generators that affect these constraints to ramp down. The Market Monitor asserts that a load pocket constraint is a real physical constraint and violating it affects reliability. As a result, the Market Monitor explains that these types of operational issues have forced MISO to disable the Sub-Regional Power Balance Constraint Demand Curve in 14 percent of all intervals.[41]

[37] MISO Transmission Owners Comments at 6; Xcel Comments at 4.

[38] MISO Transmission Owners Comments at 6.

[39] *Id.* at 6-7.

[40] *Id.* at 7.

[41] Market Monitor Comments at 6-7.

27. In its answer, MISO responds that its discretion to implement any temporary overrides to the demand curve is appropriately limited by the provisions of the Tariff.[42] MISO also states that the Market Monitor is incorrect in its assertion that MISO disabled the demand curve in 14 percent of the intervals.[43] MISO explains that it has not implemented an override of the demand curve since its implementation.[44]

c. Payment of SPP Charges for Flows up to 2,000 MW

28. The Market Monitor suggests that the Commission: (1) reject MISO's proposed Sub-Regional Power Balance Constraint Demand Curve; (2) adjust the new constraint methodology to include only a single demand curve threshold based on SPP's average non-firm through-and-out charge of $13/MWh; and (3) grant a tariff waiver to allow MISO to fund SPP's transmission charges, if any, out of congestion revenues collected by MISO on the Sub-Regional Constraint.[45]

29. The Market Monitor acknowledges that MISO's filing was made in response to the MISO-SPP JOA Order, but it disagrees with MISO that it is reasonable to restrict the sub-regional flows to 1,000 MW, because any restriction will create economic inefficiency. The Market Monitor states that the new constraint methodology results in increased generation costs that are many times higher than the potential exposure to charges from SPP. The Market Monitor asserts that prices in MISO South have increased by roughly 15 percent since MISO implemented the new constraint methodology. The Market Monitor also explains that inefficiencies such as these are not offset by any countervailing cost savings in SPP as a result of restricted sub-regional flows.[46]

30. The Market Monitor estimates that, based on data from SPP's invoices to MISO, the non-firm point-to-point transmission charges are approximately $13/MWh and potentially up to $20/MWh if unreserved use penalties are assessed. The Market Monitor asserts that these values are less than those under the new constraint methodology. Therefore, the Market Monitor proposes that MISO relax the Sub-Regional Power Balance Constraint up to 2,000 MW when the marginal value of additional transfers exceeds $13/MWh. The Market Monitor asserts that this would involve a simple change in the MISO's proposed Sub-Regional Power Balance Constraint Demand Curve, simply

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[42] MISO Answer at 8.

[43] *Id.*

[44] *Id.*

[45] Market Monitor Comments at 8.

[46] *Id.* at 4-6

using the $13/MWh or a comparable value based on the SPP Tariff for all transfers between 1,000 MW and 2,000 MW.[47]

31. The Market Monitor asserts that its proposal would also address cost allocation concerns by providing a funding mechanism for the potential SPP charges. Normally when transmission constraints bind, MISO collects congestion revenues that are used to fund Financial Transmission Rights (FTRs). However, according to the Market Monitor, MISO's net obligation to FTRs is far less than 1,000 MW in the South to Midwest direction. The Market Monitor adds that, because MISO collects Sub-Regional Constraint-related congestion revenues on the entire sub-regional transfer, but only would be exposed to transmission charges in excess of 1,000 MW, it will over-collect the revenue necessary to cover the potential transmission charge liability. The only challenge is that under the MISO Tariff, these congestion charges are used to fund MISO's aggregate FTR obligations. Therefore, MISO would need to file a tariff modification to allow MISO to utilize the Sub-Regional Power Balance Constraint congestion revenue to fund any potential SPP transmission charge obligations.[48]

32. Wisconsin Electric argues that MISO's proposal effectively creates a hurdle rate for transactions between MISO Midwest and MISO South. Wisconsin Electric explains that power will not flow between the two sub-regions unless the marginal production cost savings exceed the value associated with the Sub-Regional Power Balance Constraint Demand Curve. Wisconsin Electric argues that MISO should not increase the cost to serve load by restricting transfers resulting from the use of the Sub-Regional Power Balance Constraint Demand Curve if those higher costs could be avoided by economically transferring power and paying the incremental transaction costs.[49]

33. In its answer, Entergy states that it supports the Market Monitor's proposal, because it would mitigate, as much as practicable, the irreparable harm caused by the penalty rate[50] until the litigation over the rate is resolved.[51] Entergy explains that the Market Monitor's proposal would do so by ensuring that intra-regional transfers exceed 1,000 MW only when it is economic to do so.[52] Entergy maintains that it is also notable

[47] *Id.* at 6-7

[48] *Id.* at 7-8.

[49] Wisconsin Electric Comments at 3.

[50] The penalty rate is the sum of the charges assessed to MISO for its use, scheduled or unscheduled, of the SPP transmission system.

[51] Entergy Answer at 2.

[52] *Id.*

that the Market Monitor's proposal would achieve this result in a manner that does not create intra-MISO cost allocation issues because the penalty charges would be deducted from congestion revenues that are not owed to any holder of congestion rights over the MISO Midwest-MISO South path.[53] Entergy also recognizes that, even if MISO adopts the Market Monitor's proposal, that action need not foreclose consideration of other options in the future.[54]

34. In MISO's answer to the Market Monitor's proposal to impose a $13/MWh hurdle rate on the Sub-Regional Power Balance Constraint Demand Curve, MISO maintains that it is evaluating the proposed solution provided by the Market Monitor and expects to discuss its analysis at the June 3, 2014 Market Subcommittee meeting as part of the discussion on enhancements to the Sub-Regional Power Balance Constraint Demand Curve.[55] To the extent that MISO agrees that additional enhancements to the Sub-Regional Power Balance Constraint Demand Curve are appropriate following these stakeholder discussions, MISO will submit a new FPA section 205 filing.[56]

3. Impact on Generators

35. The Mississippi-New Orleans Regulators are also concerned that MISO does not adequately explain why applying the new constraint methodology only to generators in the MISO South sub-region improves efficiency. According to the Mississippi-New Orleans Regulators, they understand MISO's proposal to mean that, instead of using generation shift factors, MISO intends to redispatch only those generators located in MISO South using the new constraint methodology. The Mississippi-New Orleans Regulators assert that MISO does not explain why it is appropriate to use two dispatch methodologies (the existing generation shift factor methodology currently used in MISO Midwest and the new constraint methodology proposed for MISO South). The Mississippi-New Orleans Regulators also argue that MISO does not explain why equal sensitivities should apply only to MISO South generators or why the generation shift factor methodology is not appropriate for MISO South.[57]

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[53] *Id.*

[54] *Id.* at 5.

[55] MISO Answer at 9.

[56] *Id.*

[57] The Mississippi-New Orleans Regulators Comments at 12-14.

36. The Louisiana Commission states that it cannot determine whether the application of the proposed demand curves to only those generators located in MISO South is appropriate, and that additional study and analysis is required.[58]

37. Arkansas Electric disagrees with commenters that MISO's proposal to dispatch all generators in MISO South to reduce south to north flows may increase costs. Arkansas Electric explains that the Mississippi-New Orleans Regulators provide no basis upon which the Commission could find this to be so. Arkansas Electric states that the Mississippi-New Orleans Regulators do not identify any scenario in which utilizing MISO's proposal would result in MISO market participants bearing costs greater than those that would result from reliance on generation shift factors. Arkansas Electric also challenges as unsupported the assertions Mississippi-New Orleans Regulators make casting doubt on the testimony of MISO witness Kevin Vannoy, who testified that "MISO's testing has shown improved control and greater economic efficiency using the power balance constraint approach."[59]

38. Finally, Arkansas Electric states that adopting the Mississippi-New Orleans Regulators' proposal would impose a disproportionate burden on generators and load in Arkansas that does not accurately reflect the cause of the incremental limitation on economic dispatch, nor is it likely that it would reflect the actual distribution of benefits sought to be achieved. First, Arkansas Electric notes that, unlike the usual circumstance in which generators must be redispatched and generation shift factors are used to identify the appropriate generators, the use of Sub-Regional Power Balance Constraints is not designed to address actual transmission constraints. Arkansas Electric asserts that sufficient transmission capacity exists to permit greater flows between MISO Midwest and MISO South; use of that transmission capacity to permit such flows, however, is currently impeded by disputes regarding the rights, terms and conditions for such use. According to Arkansas Electric, no generator in MISO is any more responsible for this impediment or its relief than another. Similarly, Arkansas Electric alleges that the triggering event leading MISO to believe it needed to attempt to limit MISO Midwest-MISO South transfers is the effort to integrate Entergy into MISO. Arkansas Electric states that the integration was approved by Entergy-region regulators, including the Mississippi-New Orleans Regulators, presumably because they believed that integration of Entergy into MISO would benefit their jurisdictions. Thus, Arkansas Electric concludes that, to the extent that burdens arise from implementation of the Entergy integration, it is appropriate for all those who benefit from the integration—including Mississippi-New Orleans Regulators' constituents—to share those burdens.[60]

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[58] Louisiana Commission Comments at 2.

[59] Arkansas Electric Answer at 2 (quoting Vannoy Testimony at 7).

[60] *Id.* at 2-3.

4. Applicability of Demand Curve

39. MISO Transmission Owners assert that, rather than focus solely on mitigating the charges imposed by SPP, MISO inappropriately seeks to implement a demand curve for all applicable seams agreements, coordination agreements, transmission service agreements, or operating procedures.[61] Xcel also states that the application of these proposed mitigation measures should be limited to charges under the Service Agreement, because MISO has not explained why these tariff revisions apply to other seams.[62]

40. In its answer, MISO maintains that the Sub-Regional Power Balance Constraint is the proper mechanism to manage intra-regional flows. MISO explains that, in addition to applying the Sub-Regional Power Balance Constraint to manage flows associated with the Service Agreement, the Sub-Regional Power Balance Constraint provides MISO with a mechanism to manage flows consistent with other applicable seams, coordination, and/or transmission service agreements when these agreements impose limits on intra-regional flows.[63]

5. Irreparable Harm

41. Several of SPP's supporters, such as KCP&L, Sunflower and Mid-Kansas, Westar, and AEP, request that the Commission find that limiting the flows to 1,000 MW does not create irreparable harm, because it was MISO's decision to limit the flows.[64]

42. In its answer, MISO responds that the Commission should reject the protestors' claims that MISO will use its "voluntary choice to limit its directional flows to 1,000 MW" in this proceeding as a basis for demonstrating harm in the MISO-SPP JOA proceeding.[65] MISO also contends that protestors' arguments in this docket are a collateral attack on MISO's request for rehearing in Docket No. ER14-1174-000 et al. (MISO-SPP JOA proceeding). As such, MISO argues that the Commission should reject these arguments as an impermissible answer to a request for rehearing pursuant to the Commission's rules of procedure.[66]

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[61] MISO Transmission Owners Comment at 5

[62] Xcel Comments at 5.

[63] MISO Answer at 7.

[64] *See, e.g.*, KCP&L Comments at 6-8; Sunflower and Mid-Kansas Comments at 4-5; Westar Comments at 1; AEP Comments at 1.

[65] MISO Answer at 10.

[66] *Id.*

43. In its answer, KCP&L asserts that whatever choice MISO makes, it will be a choice and not irreparable harm. KCP&L explains that if MISO ultimately proposes to include a hurdle rate, and the Commission finds that just and reasonable, then KCP&L will have no objection. However, KCP&L urges that the Commission be clear that any such hurdle rate, like any other decision to limit flows, does not represent irreparable harm. KCP&L maintains that the issue of irreparable harm is an important one, because it is germane to the MISO Transmission Owners' pending motion to stay and the requests for rehearing of Entergy, MISO, and the MISO Transmission Owners. Thus, KCP&L requests that the Commission refrain from taking any action that could be interpreted as a Commission mandate that MISO limit flows.[67]

6. Consolidation with Ongoing MISO-SPP JOA Proceeding

44. MISO Transmission Owners and Xcel assert that the issues raised by the Power Balance Filing should be addressed in tandem with the MISO-SPP JOA proceeding.[68] MISO Transmission Owners state that the Power Balance Filing is a productive step toward bringing clarity to the disruptions and uncertainty created by the Service Agreement.[69] Xcel states that the tariff provisions in this proceeding may need to be modified to reflect the outcome of the MISO-SPP JOA proceeding.[70]

45. In its answer, MISO responds that, while it appreciates the related nature of these dockets, consolidating the instant docket and the MISO-SPP JOA proceeding would effectively delay the filing and implementation of any enhancements or additional solutions to the Sub-Regional Power Balance Constraint and Sub-Regional Power Balance Constraint Demand Curve because of the nature of the current settlement process and potential future hearing in the MISO-SPP JOA proceeding. As discussed in the Power Balance Filing, although the Sub-Regional Power Balance Constraint was implemented to mitigate the potential risks associated with the MISO-SPP JOA Order, it may also be applied to constraints managed through the Operations Reliability Coordination Agreement, as well as constraints related to other seams, coordination, and/or transmission service agreements. As such, consolidation of this docket with the MISO-SPP JOA proceeding is neither proper nor necessary.[71]

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[67] KCP&L Answer at 6-7.

[68] MISO Transmission Owners Comments at 2; Xcel Comments at 4.

[69] MISO Transmission Owners Comments at 3.

[70] Xcel Comments at 5.

[71] MISO Answer at 9.

C. Commission Determination

46. We find that the Power Balance Filing is just and reasonable and will accept the Power Balance Filing, effective April 12, 2014, as requested, subject to a compliance filing due within 30 days of the date of this order. We find that MISO's proposal represents a transparent and reasonable approach to limiting intra-regional flows to the amount of transmission capacity available to MISO under the Interchange Agreement (i.e., 1,000 MWs). We further find that MISO has demonstrated that the Power Balance filing is a just and reasonable and not unduly discriminatory or preferential proposal for mitigating the effects of the integration of the Entergy Operating Companies into MISO and the ongoing dispute between MISO and SPP over the MISO-SPP JOA and seams issues. Also, as MISO explains, the Sub-Regional Power Balance Constraint, and the associated Sub-Regional Power Balance Constraint Demand Curve, are necessary because the previous method (i.e., the proxy flowgate approach) failed to accurately limit intra-regional flows. Therefore, we conditionally accept for filing the Power Balance Filing, effective April 12, 2014, as requested.

1. Stakeholder Process

47. With respect to arguments that MISO's proposal should have been vetted through the stakeholder process before being filed with the Commission, MISO explains that it did not have the time it needed to fully vet this proposal through its stakeholder process and the various committees. While we encourage a stakeholder process, MISO is not required to present its Tariff proposals to stakeholders prior to making a filing with the Commission. MISO explains, the Power Balance Filing was necessary as a response to the MISO-SPP JOA Order, which placed the Service Agreement into effect. As noted in its filing and answer, MISO states that it will explore other measures once it has a better understanding of the charges assessed under the Service Agreement. MISO has also committed to exploring the Market Monitor's proposal with stakeholders. Thus, we encourage MISO, now that the Power Balance Filing has been placed into effect, to conduct a more thorough stakeholder process, study the price and operational impacts of the new constraint methodology, and develop refinements or a new methodology, as necessary.

2. Methodology

a. Need for 1,000 MW Constraint

48. The Mississippi-New Orleans Regulators and Louisiana Commission raise concerns that MISO's proposal represents a departure from the methodology used under the Operations Reliability Coordination Agreement. Under the Operations Reliability Coordination Agreement, MISO managed intra-regional flows using the multi-transmission element proxy flowgate approach. MISO explains, however, that the multi-transmission element proxy flowgate approach has led to difficulty managing the intra-

regional flows. MISO also explains that it was working on the methodology proposed in the Power Balance Filing prior to the Commission's acceptance of the Service Agreement because of the inefficiencies created by the multi-transmission element proxy flowgate approach. We agree with MISO that doing so is consistent with the Commission acceptance the Operations Reliability Coordination Agreement, which the Commission recognized as a transitional mechanism that will allow the parties to gain familiarity and experience with MISO's expanded operations.[72] Thus, while the Power Balance Filing modifies the methodology previously employed under the Operations Reliability Coordination Agreement, it does so in a way that better manages intra-regional flows.

b. Demand Curve Override

49. With respect to MISO's discretion to override the Sub-Regional Power Balance Constraint Demand Curve, we find that MISO's proposed tariff revisions fail to provide adequate transparency into the circumstances surrounding when, why, and how MISO implements an override and the extent to which MISO shares that information with its stakeholders. Thus, consistent with a similar compliance requirement imposed on MISO regarding its override of the Transmission Constraint Demand Curve,[73] we will require MISO to make a compliance filing, within 30 days of the date of this order, that includes tariff provisions that require MISO to: (1) explain the circumstances in which the temporary override was in place; (2) describe the length of time each temporary override was in place; and (3) state the price value applied during the temporary override in place of the default Sub-Regional Power Balance Constraint Demand Curve values.

50. Also, we disagree with the Market Monitor's concerns that the implementation of the Sub-Regional Power Balance Constraint and the use of the Sub-Regional Power Balance Constraint Demand Curve is causing adverse operational issues that require an override of the Sub-Regional Power Balance Constraint Demand Curve. Specifically, the Market Monitor claims that MISO has been forced to override the Sub-Regional Power Balance Constraint Demand Curve in 14 percent of intervals since the implementation of the Sub-Regional Power Balance Constraint. However, as explained by MISO, it has not been forced to disable or override the demand curve in any interval, let alone to manage an operating issue caused by the implementation of the Sub-Regional Power Balance Constraint.

[72] *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,032 at P 50.

[73] *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,128, at P 23 (2013).

c. Payment of SPP Charges for Flows up to 2,000 MW

51. As discussed above, we find that the Power Balance Filing is just and reasonable. As explained by MISO, the Sub-Regional Power Balance Constraint and Demand Curve construct has shown improved control and ability to manage intra-regional flows. And while we find that the Power Balance Filing is just and reasonable, we recognize that MISO responded to the Market Monitor's contention that it is more effective to incur charges under the Service Agreement for flows up to 2,000 MW by noting that it is evaluating the proposed solution provided by the Market Monitor and expects to discuss it at the June 3, 2014 Market Subcommittee meeting.[74] MISO explained that the Power Balance Filing is intended to mitigate the effects of the Service Agreement until MISO better understands the costs to be incurred under the Service Agreement. We find that MISO's proposal represents a just and reasonable approach to managing intra-regional flows within the limits of the transmission capacity afford to MISO under the Interchange Agreement. Having found that the Power Balance Filing construct is just and reasonable, we need not consider alternative designs.[75] To the extent that the parties seek additional changes, we encourage them to do so through the stakeholder process.

52. Also, notwithstanding the fact that MISO will explore whether it is more cost-effective to incur charges under the Service Agreement, we disagree with Wisconsin Electric's arguments that the Power Balance Filing creates a hurdle rate between MISO Midwest and MISO South. We note that there is no "hurdle" for transactions up to the 1,000 MW limit, which represents the amount of transmission capacity available to MISO via the Interchange Agreement between Associated Electric, Ameren, and Entergy Arkansas. For flows that are expected to exceed the 1,000 MW, the Sub-Regional Power Balance Constraint Demand Curve prices Sub-Regional Power Balance Constraints during any dispatch interval in which such constraints cannot be managed within their binding limit using the security constrained economic dispatch engine. This is similar to how MISO manages transmission constraints on its system, as MISO uses the Transmission Constraint Demand Curve to price transmission constraints that cannot be managed under the security constrained economic dispatch process. Like the Sub-Regional Power Balance Constraint Demand Curve, the Transmission Constraint Demand Curve prices transmission constraints based on the amount that flows exceed the binding limit on the line.[76] Finally, we note that MISO was previously using the

[74] The Market Monitor's concerns are similar to Wisconsin Electric's arguments that suggest that it would be more cost-efficient to pay the charges assessed under the Service Agreement.

[75] *See Oxy USA, Inc. v. FERC*, 64 F.3d 679, 691 (D.C. Cir. 1995); *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984).

[76] *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,128, at P 6 (2013).

Transmission Constraint Demand Curve to price exceedances associated with the intra-regional flows, but the multi-transmission element proxy flowgate approach did not prove efficient in modeling intra-regional flows.

3. Impact on Generators

53. In response to the Mississippi-New Orleans Regulators' and Louisiana Commission's concern that under the Power Balance Filing all MISO South generation resources have equal sensitivities to a binding constraint, MISO has demonstrated that this approach has shown improved control and greater economic efficiency.[77] Also, we note that the use of generation shift factors correspond to the impact that a generation resource has on a transmission flowgate and, as MISO acknowledges, it is no longer employing the multi-transmission element proxy flowgate approach to manage intra-regional flows. Thus, MISO's proposal in the Power Balance Filing is not related to modeling a transmission constraint, where generation shift factors would be appropriate in determining how to manage the transmission constraint. Rather, MISO's proposal employs a net injection/withdrawal methodology that models the flows across the entire system and, accordingly, applies equal sensitivity to all generation resources in the MISO South sub-region in the event of a binding constraint. What MISO has not explained, however, is why this methodology is only appropriate for MISO South generators and not generators in the MISO Midwest sub-region, given that MISO will continue to use generation shift factors to control flows in MISO Midwest but not in MISO South. Thus, while we recognize that the use of generation shift factors may not be appropriate given that the constraint is no longer modeled as a transmission constraint, MISO has not explained why MISO Midwest generators appear to be treated differently from MISO South generators in responding to a binding Sub-Regional Power Balance Constraint. Accordingly, we direct MISO, in a compliance filing to be made within 30 days of the date of this order, to explain the discrepancy in how the generators in the two sub-regions are treated.

4. Applicability of Demand Curve

54. In response to arguments regarding the applicability of the demand curve, we agree with MISO that the Sub-Regional Power Balance Constraint Demand Curve serves similar goals as MISO's existing Transmission Constraint Demand Curve. Specifically, these goals include: (1) economically managing intra-regional flows; (2) reducing transient price spikes; (3) establishing a market price signal that reflects the degree and value of exceeding intra-regional flows; and (4) establishing curves that are straight-forward and simple enough for operational practice. MISO attests that its proposed methodology has shown improved control and greater economic efficiency. Based on this information, we find that MISO's Power Balance Filing represents a just and

[77] Vannoy Testimony at 7.

reasonable methodology for managing intra-regional flows. Also, with respect to the applicability of the Sub-Regional Power Balance Constraint Demand Curve, we note that while MISO's proposed methodology is being implemented to mitigate the potential risks associated with the effectiveness of the Service Agreement, MISO's proposed methodology also applies to constraints managed through the Operations Reliability Coordination Agreement, as well as constraints relating to other seams, coordination, and/or transmission service agreements. Thus, as the Operations Reliability Coordination Agreement is an agreement among several parties in addition to SPP, such as Southern Company and the Tennessee Valley Authority, the applicability of the Sub-Regional Power Balance Constraint Demand Curve is not limited to addressing flows over the SPP transmission system and related charges under the Service Agreement.

5. Irreparable Harm and Consolidation

55. Even though MISO does not claim in this filing that the 1,000 MW limitation causes irreparable harm, several protestors argue that MISO cannot use this filing to demonstrate irreparable harm. We find that the arguments raised by SPP's supporters appear to be in response to statements made by MISO in its request for rehearing of the MISO-SPP JOA Order. We note that these issues are pending on rehearing and are appropriately addressed in the Commission's order on rehearing of the MISO-SPP JOA Order. Thus we will not address these arguments in the instant docket, and we therefore also deny the MISO Transmission Owners' and Xcel's requests for consolidation of this proceeding with the MISO-SPP JOA proceeding.

The Commission orders:

(A) MISO's Power Balance Filing is hereby conditionally accepted for filing, effective April 12, 2014, as requested, as discussed in the body of this order.

(B) MISO is hereby directed to file, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Motions to Intervene

Alliant Energy Corporate Services, Inc.
Ameren Services Company
American Electric Power Service Corporation[78]
Arkansas Electric Cooperative Corporation (Arkansas Electric)
Associated Electric Cooperative, Inc., Tennessee Valley Authority, Louisville Gas and Electric Company and Kentucky Utilities Company
Cleco Power LLC
Consumers Energy Company
Dynegy Marketing and Trade, LLC and Illinois Power Marketing Company
Empire District Electric Company
Exelon Corporation
Kansas Corporation Commission
Lincoln Electric System
MidAmerican Energy Company
Nebraska Public Power District
NRG Power Marketing LLC and GenOn Energy Management, LLC
Oklahoma Gas and Electric Company
Omaha Public Power District
Southern Company Services, Inc.[79]
South Mississippi Electric Power Association
Southwest Power Pool, Inc.

Notices of Intervention

Arkansas Public Service Commission
Council of the City of New Orleans, Louisiana (City of New Orleans)
Louisiana Public Service Commission (Louisiana Commission)
Mississippi Public Service Commission (Mississippi Commission)
Missouri Public Service Commission

[78] American Electric Power Service Corporation filed on behalf of Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, AEP).

[79] Southern Company Services, Inc. filed on behalf of Alabama Power Company; Georgia Power Company; Southern Power Company; Mississippi Power Company; and Gulf Power Company (collectively, Southern Companies).

Late-Filed Motion to Intervene

Indiana Utility Regulatory Commission
Organization of MISO States[80]
Public Utility Commission of Texas

Motion to Intervene and Comments

Entergy Services, Inc.[81]
Potomac Economics (Market Monitor)
Westar Energy, Inc. (Westar)
Wisconsin Electric Power Company (Wisconsin Electric)
Xcel Energy, Inc.[82]

Motions to Intervene and Protests

Kansas City Power & Light and KCP&L Greater Missouri Operations Company (KCP&L)
Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC (Sunflower and Mid-Kansas)

[80] This pleading was styled as: Support of Motion to Stay Effectiveness of Service Agreement and Request for Rehearing, and Motion for Intervention Out-of-Time of the Organization of MISO States. For purposes of this filing, Organization of MISO States include: Illinois Commerce Commission; Iowa Utilities Board; Louisiana Public Service Commission; Michigan Public Service Commission; Minnesota Public Utilities Commission; Montana Public Service Commission; City of New Orleans; North Dakota Public Service Commission; South Dakota Public Utilities Commission; and Wisconsin Public Service Commission. This filing was also made in Docket Nos. ER14-1174-000; ER14-1174-001; EL11-34-002; EL11-34-003; EL14-21-000; EL14-21-001; EL14-30-000; and EL14-30-001. Organization of MISO States also filed an errata to their original filing.

[81] Entergy Services, Inc. filed on behalf of Entergy Arkansas, Inc.; Entergy Gulf States Louisiana, L.L.C; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; and Entergy Texas, Inc. (collectively, Entergy).

[82] Xcel Energy, Inc. filed on behalf of Northern States Power Company, a Minnesota corporation; Northern States Power Company, a Wisconsin corporation; and Southwestern Public Service Company (Xcel).

Comments

Mississippi Commission and City of New Orleans (Mississippi-New Orleans Regulators)
Louisiana Commission

Protests

AEP

Motion to Intervene, Comments and Motion to Consolidate

MISO Transmission Owners[83]

Answers

Arkansas Electric
Entergy
KCP&L
Midcontinent Independent System Operator, Inc.
Mississippi Commission

[83] For purposes of this filing, MISO Transmission Owners include: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; Michigan Public Power Agency; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; South Mississippi Electric Power Association; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.